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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/598,031

05/21/2007

Theodore D. Ciolkosz

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EXAMINER

FREAY, CHARLES GRANT

ART UNIT

PAPER NUMBER

3746

MAIL DATE

DELIVERY MODE

11/09/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/598,031	Applicant(s) CIOLKOSZ ET AL.	
	Examiner Charles G. Freay	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/2010</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to the Amendment of September 29, 2010 that canceled the previous claims and added new claims 33-43. The Examiner has considered each of the Applicant's arguments. The below objections and rejections address each of the amendments and all of the Applicant's arguments.

Claim Objections

Claim 41 is objected to because of the following informalities: in line 4 "of the compression" should be "of the compression means". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 34-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are vague and indefinite because in claim 34 the abutment surface is said to be disposed "at an end of the housing" which implies the most outer surface. But claims 35 sets forth that the abutment surface is formed in a recess. Thus, the abutment surface is not "at and end". The Examiner suggest claiming "near an end" in claim 34.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

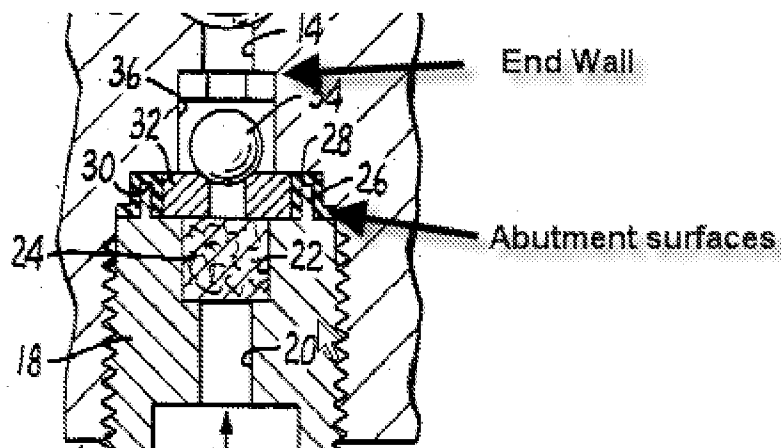
The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 33-39 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Major (USPN 4,387,736) in view of Dolan (USPAP 2005/0115840) and Tepermeister et al (USPN 4,974,628).

Major discloses a flow control device for receiving and discharging fluids. The lower valve of Fig. 3 discloses the claims as follows. Fig. 3, shown below, of Major discloses a housing 12 having an end wall and an abutment surface, an end cap 18 having an abutment surface, openings 20 (in the end cap) and 14 (in the end wall), a compression mechanism (the threads on the outer surface of the end cap 18). The housing having an interior surface 36 defining a chamber that includes a valve 34, the end cap 18 includes a ridge 32 to localize compression force against a plastic seal layer 28 between the end cap and an end cap abutment surface. There is additionally a cylinder 32 acting a ball seat. Major does not disclose that the plastic seal is a PTFE, PEEK, PCTFE, PFA or FEP coating. Major also does not disclose a compression means for engaging the end cap.



Dolan discloses that PTFE coatings are well known, see the Title and abstract. At the time of the invention it would have been obvious to one of ordinary skill in the art to

Art Unit: 3746

utilize or substitute a PTFE coating for the "any suitable plastic material" as taught by Dolan since it is a desirable plastic sealing material (Major col. 2 line 55) due to its long life and the coating would result in the elimination of the plastic seal element and the simplification of the assembly process.

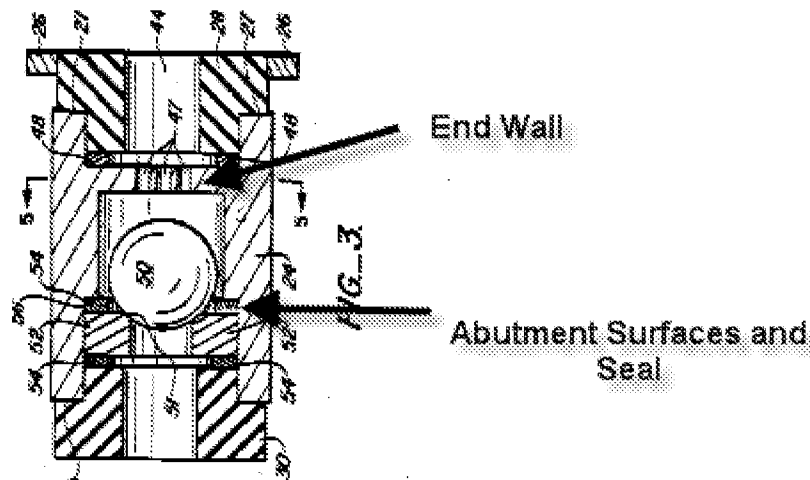
Tepermeister et al disclose a similar flow control mechanism having a compression means 20, 34 for engaging an end cap 30, 52 of the flow control means. At the time of the invention it would have been obvious to substitute the compression means of Tepermeister et al for the compression mechanism of Major as a well known and equivalent valve assembly and compression mechanism which also reduces the rotation, and therefore the wear between, the housing and the end cap.

Claims 33-39 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tepermeister et al (USPN 4,974,628). in view of Dolan (USPAP 2005/0115840) and

Tepermeister et al discloses a flow control device for receiving and discharging fluids. The lower valve of Fig. 2, shown in detail in Fig. 3 (reproduced below) discloses the claims as follows. In Fig. 2 of Tepermeister et al flow control device comprising a housing 24 having an end wall and an abutment surface, an end cap 30, 54, 52 having an abutment surface, openings in the end cap and the end wall, and a compression means 20, 34 for engaging an end cap 30, 52 of the flow control means. The housing having an interior surface defining a chamber that includes a valve. There are sealing members 28, 30 at the ends of the housing made of deformable plastics (col. 2 lines 5-

Art Unit: 3746

10) and there is compliant plastic seal member 54 between the abutment surfaces of the end cap and the housing. Tepermeister et al do not disclose the seal mechanism being a PTFE, PEEK, PCTFE, PFA or FEP plastic seal coating.



Dolan discloses that PTFE coatings are well known, see the Title and abstract. At the time of the invention it would have been obvious to one of ordinary skill in the art to utilize or substitute a PTFE coating for the seal members of Tepermeister et al, the coating would result in the elimination of the plastic seal element and the simplification of the assembly process.

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tepermeister et al in view of Dolan as applied to claim 33 above, and further in view of Reed (USPN 5,605,449).

Tepermeister et al in view of Dolan discloses the invention substantially as claimed but does not disclose that the compression means includes a compression housing and a sleeve to cause compression. Reed discloses a similar valve securing

Art Unit: 3746

assembly in the form of compression housing 30 and a cooperating sleeve 84. At the time of the invention it would have been obvious to one of ordinary skill in the art to substitute a compression housing and a compression sleeve for the compression means of Tepermeister et al as an equivalent securing and compression mechanism which also will reduce the rotation movement of the valve assembly as compressed, and thus reduce wear.

Response to Arguments

Applicant's arguments filed September 29, 2010 have been fully considered but they are not persuasive. The Applicant makes the following two arguments: that in Major the deformation is not between abutting surfaces of the housing and the end cap; and one of ordinary skill would not look to replace the seal with a coating because the coating could not be shaped to accommodate the boss of Major. The Examiner respectfully disagrees and notes that Fig. From Major reproduced above identifies where the seal deforms between the two abutting surfaces. Further, the Examiner argues that when creating or manufacturing the seal coating it would not be formed first, as implied by the Applicant's argument, but would instead be directly coated onto surface and boss of Major.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 3746

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles G. Freay whose telephone number is 571-272-4827. The examiner can normally be reached on Monday through Friday 8:30 A.M. to 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on 571-272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3746

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles G Freay/
Primary Examiner
Art Unit 3746

CGF
November 5, 2010